

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

YOLANDA R. EFFINGER

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Plaintiff,

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* Case No. 2:07-CV-657-ID-TFM

v.

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WINN DIXIE MONTGOMERY, INC.

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Defendant.

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**NOTICE OF MOTION AND PLAINTIFF'S MOTION TO COMPEL ANSWERS
TO PLAINTIFF'S FIRST SET OF INTERROGATORIES**

Pursuant to Federal Rule of Civil Procedure 37, plaintiff moves the court for an order compelling defendant to fully, properly and completely answer Plaintiff's First Set of Interrogatories. Plaintiff hereby states the following grounds for this motion, to wit:

1. That certain responses by defendant do not constitute proper answers or objections pursuant to F.R.C.P. 33.
2. That defendant's verification does not comply with F.R.C.P. 33; and
3. That, on the whole, defendant's responses are non-responsive, evasive and incomplete in violation of F.R.C.P. 33 and thus constitute a failure to answer under F.R.C.P. 37 (a).

This motion is also based on this Notice of Motion, the memorandum in support hereof, and all other papers and arguments plaintiff submits or makes with this submission.

CERTIFICATION OF COUNSEL

I hereby certify that the parties have conferred in a good faith attempt to settle this discovery dispute but are at polar opposites. Upon receipt of defendant's responses on November 30, 2007, plaintiff's counsel wrote a letter to defendant (Exhibit A attached) outlining his objections and requesting defendant's compliance. Since Plaintiff has until December 29, 2007 to amend her pleadings and add parties, defendant was requested to simply agree to comply with F.R.C.P. 33 within a reasonable time.

Defendant replied to plaintiff on December 5, 2007 by letter (Exhibit B attached) essentially stating that it had complied with F.R.C.P. 33.

Undersigned counsel for plaintiff does not foresee the parties being able to voluntarily resolve this discovery dispute.

Respectfully submitted this 6th day of December, 2007.

/s/ Ronald B. Hatcher

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PROOF OF SERVICE

I hereby certify that a copy of the foregoing Notice and Motion to Compel Answers to Plaintiff's First Interrogatories, together with attached Memorandum in Support Thereof, and Exhibits, was served on counsel for defendant by e-mail and regular U. S. Mail as follows:

Atty. Randall Morgan
Hill, Hill, Carter
rmorgan@HillHillCarter.com
P. O. Box 116
Montgomery, AL 36101

This 6th day of December, 2007.

/s/ Ronald B. Hatcher

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